

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2009-144-C

IN RE: )  
 )  
Petition of TracFone Wireless, Inc. )  
for Designation as an Eligible Telecommunications )  
Carrier in the State of South Carolina for the Limited )  
Purpose of Offering Lifeline Service to Qualified )  
Households )

**ORDER DESIGNATING TRACFONE WIRELESS, INC.  
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

This matter comes before the Commission and concerns the petition of TracFone Wireless, Inc. (“TracFone”) filed with the Commission on April 1, 2009 for designation as an Eligible Telecommunications Carrier (“ETC”). This matter is before the Commission pursuant to authority delegated to it by the United States Congress at Section 214(e)(2) of the Communications Act of 1934, as amended.<sup>1</sup> By its petition, TracFone seeks designation as an ETC for the limited purpose of receiving support from the federal Universal Service Fund (“USF”) to provide Lifeline service to qualified low income South Carolina households. TracFone does not seek high cost support from the federal USF, nor does it seek any support from the South Carolina Universal Service Fund. Because TracFone differs in several respects from other telecommunications providers who have sought designation as ETCs, the instant petition presents certain matters of first impression to the Commission. It also presents the

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<sup>1</sup> 47 U.S.C. § 214(e)(2). The Communications Act of 1934, as amended, shall be referred to as the “Communications Act” or the “Act.”

Commission with an opportunity to afford low income South Carolina households access to a unique Lifeline service.

### **Description of TracFone**

TracFone is a Delaware corporation headquartered at Miami, Florida. It provides commercial mobile radio service (“CMRS”) throughout the United States, including South Carolina, as well as several U.S. territories. CMRS is a mobile service.<sup>2</sup> TracFone differs in several important respects from other wireless providers who have sought ETC designation from the Commission. First, TracFone does not own or operate any telecommunications facilities. It provides service to its customers by purchasing CMRS service at wholesale rates from underlying CMRS providers, including AT&T Wireless, T-Mobile, Verizon Wireless, and U S Cellular, and reselling those services to consumers. Second, TracFone offers only prepaid CMRS services. It provides no post-paid or billed services. There are no customer contracts, no term or volume commitments, no credit checks, and no early termination fees. TracFone customers purchase quantities of service (wireless airtime minutes) either directly from TracFone through its Internet website (www.tracfone.com) or from independent retail outlets, including, for example, Wal-Mart, Target, Best Buy, Radio Shack, Dollar General, and others. Service is purchased on a pay-as-you-go basis. TracFone customers purchase as much wireless airtime as they need when they need it. According to testimony provided in this proceeding by its President and Chief Executive Officer, F.J. Pollak, TracFone has more than 13 million customers (Tr. at 61, line 3), including approximately 182,000 customers in South Carolina (Tr. at 66, line 8).

### **Description of TracFone’s Lifeline Service**

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<sup>2</sup> CMRS and Mobile Service are statutorily defined terms under the Communications Act. CMRS is defined at 47 U.S.C. § 332(d)(1). Mobile Service is defined at 47 U.S.C. § 153(27).

If designated as an ETC, TracFone will provide Lifeline service to low income South Carolina households under the brand name SafeLink Wireless®. SafeLink Wireless® currently is available in eighteen other states and the District Columbia where TracFone has been designated as an ETC.<sup>3</sup> Among the states where SafeLink Wireless® is available today are our neighboring states of North Carolina, and Georgia, as well as other nearby states such as Florida and Tennessee.

All SafeLink Wireless® customers will receive from TracFone free E911-compliant wireless handsets. In addition, each South Carolina customer will receive 63 free minutes of wireless airtime each month. Those airtime minutes will be delivered by TracFone to the customers at the beginning of each month. Unused minutes will carry over from month-to-month so long as the customers remain enrolled in the Lifeline program. SafeLink Wireless® service will not be limited to local calling. Airtime minutes may be used for local and long distance calling, as well as international calling to more than 60 destinations. There are no additional charges for long distance calling or for roaming. SafeLink Wireless® service includes at no extra charge important vertical features including call waiting, caller ID, and voice mail. SMS text messaging is available. SafeLink Wireless® customers may purchase additional airtime minutes from retail vendors. However, there is no requirement that they do so. In fact, less than ten percent of TracFone's SafeLink Wireless® customers, purchase additional airtime beyond the amount they receive free each month (Tr. at 68, lines 8-9). All TracFone airtime products purchased by SafeLink Wireless® customers will be rated by TracFone upon activation

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<sup>3</sup> On September 10, 2009, TracFone was designated as an ETC in the State of Illinois. Also, its ETC designation in the State of Maryland became final on September 18, 2009. It has been designated as an ETC to provide Lifeline service in the State of Missouri and the State of Texas. It plans to commence offering SafeLink Wireless® service in those four additional states in the near future.

to provide sufficient minutes so that the per minute price paid by SafeLink Wireless® Lifeline customers never exceeds \$0.20, irrespective of the quantity of prepaid minutes purchased or the face price on the prepaid card.

Importantly, since the service is entirely prepaid, no SafeLink Wireless® customer will be at risk of having service disconnected or terminated for non-payment of additional billed charges. In addition, the TracFone wireless handsets provided to SafeLink Wireless® customers may always be used to access 911, without regard to whether the customer's service is otherwise active and without regard to whether there are remaining airtime minutes available on the customer's account.

In the states where TracFone has been designated as an ETC, it has been able to increase the numbers of low income households participating in Lifeline by substantial amounts. These increased Lifeline participation percentages are stated in Late-Filed Exhibit No. 3 and in the testimony of TracFone witness, F.J. Pollak, its President and Chief Executive Officer. Tr. at 105, line 24 to 106, line 15. This is important in our State where Lifeline participation remains at unacceptably low levels. According to data compiled by the Federal Communications Commission and by the Universal Service Administrative Company, less than twenty percent of qualified low income households in South Carolina are enrolled in Lifeline. During the hearing, TracFone's Mr. Pollak testified that approximately 695,000 South Carolina households received Food Stamps, but that only 26,000 South Carolina households receive Lifeline support -- a Lifeline participation rate below four percent. Tr at 103, line 20 to 104, line 2.

#### **Basis of Funding for SafeLink Wireless®**

The entirety of the Lifeline benefit provided to SafeLink Wireless® customers will be provided from two sources -- the federal Universal Service Fund, and TracFone. TracFone will

pass through to each Lifeline customer one hundred percent of the federal USF support it receives from the federal USF. Those support amounts are determined by Section 54.403 of the FCC's rules.<sup>4</sup> In addition to passing through to each SafeLink Wireless® Lifeline customer one hundred percent of federal USF support received, TracFone will provide an additional benefit to each enrolled Lifeline customer of \$3.50 per month. TracFone will receive no support from any other sources, including no support from the South Carolina Universal Service Fund (State USF).

### **Statutory Authority for ETC Designation**

The Commission's authority to designate ETCs in South Carolina is derived from Section 214(e) of the Communications Act.<sup>5</sup> Specifically, Section 214(e)(2) states, in relevant part, as follows:

DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS - A State Commission shall, upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State Commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

In short, pursuant to Section 214(e)(2), the Commission shall designate TracFone as an ETC, provided that it meets the requirements of Section 214(e)(1) of the Communications Act. Paragraph (1) contains the following two requirements:

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<sup>4</sup> 47 C.F.R. § 54.403.

<sup>5</sup> 47 U.S.C. § 214(e)(2).

(A) offer services that are supported by Federal universal service support mechanisms under Section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) Advertise the availability of such services and the charges therefor using media of general distribution.

We find that TracFone meets both prongs of Section 214(e)(1). With respect to Section 214(e)(1)(A), as a wireless reseller, TracFone does not provide service either in whole or in part using its own facilities. However, in an order issued by the FCC in September 2005, the FCC exercised its authority pursuant to Section 10 of the Communications Act to forbear from application or enforcement of the facilities-based service requirement contained at Section 214(e)(1)(A).<sup>6</sup> Moreover, pursuant to Section 10(e) of the Communications Act, this Commission may not attempt to subject a telecommunications carrier to any provision of the Communications Act once the FCC has exercised its authority to forbear from applying or enforcing that provision of the Act with respect to that carrier.<sup>7</sup> As a result, the TracFone Forbearance Order is binding on this Commission as it is on all State commissions.

Regarding Section 214(e)(1)(B), attached to TracFone's petition as Exhibit 10 are examples of the print and electronic media advertisements that TracFone has used in other states to advertise SafeLink Wireless® and which it plans to use in South Carolina. We find that the efficacy of those advertisements is demonstrated by the large number of customers who have enrolled in SafeLink Wireless® in other states and the resulting increase in Lifeline participation

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<sup>6</sup> See Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), 20 FCC Rcd 15095 (2005). That FCC order, hereafter referred to as the "TracFone Forbearance Order," is attached to TracFone's ETC petition as Exhibit 1.

<sup>7</sup> 47 U.S.C. § 160(e). ("A State commission may not continue to apply or enforce any provision of this Act that the [Federal Communications] Commission has determined to forbear from applying under subsection (a).").

in those states, as reflected in TracFone's Late-Filed Exhibit filed September 10, 2009 (Late-Filed Exhibit No. 3).

**TracFone Will Provide All Required Universal Service Functionalities**

Section 54.101 of the FCC's rules,<sup>8</sup> requires that ETCs provide each of a series of mandatory services and functionalities. These include the following: 1) voice grade access to the public switched network; 2) local usage; 3) dual tone multi-frequency signaling or its functional equivalent; 4) single-party service or its functional equivalent; 5) access to 911 and E911 emergency services; 6) access to operator services; 7) access to interexchange service; 8) access to directory assistance; and 9) toll limitation to qualified low income customers.

In its petition, TracFone demonstrated that it will provide each of these services and functionalities. No party questioned or disputed that all of the required services and functionalities would be provided. Accordingly, we find that TracFone will provide to its SafeLink Wireless® customers all services and functionalities required of ETCs.

**TracFone is not Required to Contribute to the South Carolina Universal Service Fund as a Condition of its Lifeline-only ETC Designation**

The only issues in dispute involve whether TracFone, as a CMRS provider, not otherwise subject to an obligation to contribute to the State USF, should be required to so contribute based on its status as a Lifeline-only wireless ETC. On July 30, 2009, TracFone filed a legal memorandum which articulates the legal and public interest reasons why it should not be subject to a State USF contribution requirement if designated as a Lifeline-only ETC. The Office of Regulatory Staff ("ORS") has asserted in its testimony and in a reply brief filed August 21, 2009 that wireless carriers, including CMRS providers, who apply for designation either as Carriers of Last Resort ("COLR") or as ETCs are deemed to have indicated an intent to offer services which

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<sup>8</sup> 47 C.F.R. § 54.101.

compete with local telecommunications services, and therefore should be required to contribute to the State USF. TracFone has disputed ORS's position regarding State USF contribution obligations on legal and public interest grounds.

In order to obtain a complete record on the State USF contribution issue, the Commission held oral argument on September 3, 2009, immediately prior to the hearing in this matter. The Commission has carefully reviewed the entirety of the record, including the parties' direct testimony, rebuttal testimony and surrebuttal testimony, the supporting legal memoranda, the oral argument transcript and the late-filed exhibits provided at the request of the Commissioners. Based on that thorough review, the Commission has concluded that TracFone should not be required to contribute to the State USF as a condition of being designated as an ETC for the limited purpose of offering Lifeline service to low-income South Carolina households.

This conclusion is based on several factors. First, it is highly questionable whether applicable statutory law allows the Commission to require a CMRS provider to contribute to the State USF. Second, as a non-facilities-based CMRS provider, TracFone would not be eligible for COLR designation and, absent COLR designation, TracFone would not be permitted under applicable South Carolina law to receive support from the State USF for its Lifeline offering. No other wireless ETC in the State which offers Lifeline service without receiving support from the State USF is required to contribute to the State USF, and subjecting TracFone alone to such a contribution obligation would constitute an unreasonable discrimination. Third, no other state in which TracFone has been designated as an ETC or where it has applied for designation as an ETC has sought to subject it to state USF contribution requirements and there is no justification for the Commission departing from the manner in which every other state has resolved the question of state USF contribution requirements. Finally, TracFone will provide directly to each



of its SafeLink Wireless® Lifeline customers a direct subsidy in the amount of \$3.50 per month – borne directly by TracFone. The Commission is not aware of any other South Carolina ETC providing direct Lifeline subsidies to consumers without reimbursement from the State USF. To require TracFone to contribute to the State USF in addition to the direct contribution that it will make to each Lifeline customer would result in TracFone contributing twice to the support of universal service in South Carolina – once through the State USF; once through direct subsidies to Lifeline customers. We find that such double contributions are unnecessary, unwarranted, discriminatory, and not in the public interest.

**A. Authority to Subject Wireless Providers to State USF Contribution Obligations is Limited to Private Local Exchange Carriers and Radio-based Local Exchange Carriers -- Neither of those Categories are Applicable to TracFone**

As a general principle, we have determined on two separate occasions that wireless carriers (CMRS providers) should not be required to contribute to the State USF. First, in Order No. 2001-419 issued in Docket 97-239-C on June 6, 2001 (Proceeding to Establish Guidelines for an Intrastate Universal Service Fund), we determined to exclude wireless revenues from the base of State USF contributions. That decision to exclude wireless revenues from State USF contributions was affirmed five years later in our July 3, 2006 order in the same docket (Order No. 2006-235) (“ . . . whether under current Commission orders, wireless and broadband revenues should be included for assessment purposes. We declare that such revenues should not be so included.”).

However, in the 2001 Order in Docket No. 97-239-C, we found that if a wireless carrier applies to the Commission for COLR or ETC status, such application would be considered a declaration of that carrier’s intent to offer services that compete with local telecommunications

services and that such carrier would be required upon approval of its COLR and ETC designation to contribute to the State USF.<sup>9</sup>

On reflection, we have determined that our authority to impose State USF contribution requirements on CMRS providers as a condition to COLR or ETC designation must be imposed in a manner consistent with the underlying statutory authority and with the limits on that authority. In the past, we have relied on South Carolina Statutes § 58-9-230(E)(3) for imposing State USF obligations on certain wireless providers. Section 58-9-230(E)(3) states as follows:

The commission shall also require any company providing telecommunications services to contribute to the [State] USF if, after notice and opportunity for hearing, the commission determines that the company is providing **private local exchange services** or **radio-based local exchange services** in this State that compete with a local telecommunications service provided in this State. (emphasis added).

Pursuant to § 58-9-280(E)(3), our authority to subject CMRS providers, such as TracFone, to State USF contribution obligations is not unlimited. Such providers may only be required to contribute to the State USF when two conditions exist: 1) they compete with local telecommunications service provided in South Carolina; and 2) they provide either “private local exchange services” or “radio-based local exchange services.” In our judgment, all CMRS providers, to some degree, compete with local telecommunications services since it is our understanding that all CMRS services offered in the state provide customers with the ability to send and receive local telephone calls. However, not all CMRS providers offer “private local exchange services” or “radio-based local exchange services.” In this regard, we reject the assertion of ORS that the terms “radio-based local exchange service,” “CMRS,” “radio common carrier,” and “wireless carrier” are synonymous with each other and may be substituted for each

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<sup>9</sup> Order No. 2001-419 at p. 37.

other for purposes of Section 58-9-280(C)(3). We note that ORS has claimed that TracFone is a radio common carrier under South Carolina law. However, South Carolina Statutes § 58-11-10(f) defines radio common carrier in relevant part as a corporation “. . . now or hereafter owning or operating in the State equipment or facilities for the transmission of intelligence by a modulated radio frequency signal, for compensation to the public.” TracFone neither owns nor operates such equipment or facilities in South Carolina and is therefore not a “radio common carrier” within the statutory definition of that term, and therefore is not subject to the radio common carrier provisions of the statutes.

A CMRS service such as that provided by TracFone could not be a “radio-based local exchange service unless it is first a “local exchange service.” South Carolina Code § 58-9-10(9) contains this State’s statutory definition of “basic local exchange service.” While several elements of that statutory definition would be applicable to TracFone’s service, other elements are conspicuously inapplicable to TracFone service. For example, while TracFone customers enjoy the ability to send and receive local calls, the service is clearly not a local service. TracFone’s CMRS service provides communications capability statewide, nationwide and worldwide, with there being no difference in the prices for “local” calls or the manner in which they are initiated or received. In addition, TracFone, like virtually all CMRS providers, neither publishes telephone directories nor arranges for customer listings in other companies’ directories. Thus, the statutory element in the basic local exchange service definition of “one annual local directory listing (white pages or equivalent)” clearly is inapplicable to TracFone’s CMRS service.

As a legislatively-created department, this Commission is limited by the language of the statutes we are responsible for implementing and enforcing. We have no power to amend

statutory language either on our own volition or at the request of ORS. Since TracFone service is not basic local exchange service as that term is defined by the legislature, TracFone is not a provider of radio-based local exchange service, notwithstanding the fact that it resells radio-based (wireless) service to provide mobile or CMRS service.

**B. As a Non-Facilities-Based Carrier, TracFone may not Receive State USF Support for its Lifeline Program. To Require it to Contribute to the State USF without Receiving State USF Support For Its Lifeline Service would be Unreasonably Discriminatory**

In South Carolina, ETCs that provide Lifeline service to low income South Carolina households receive support from the State USF in addition to the support provided by the federal USF. ETCs have been entitled to receive State USF Lifeline support since our 2001 Order in Docket 97-239-C. There, we stated as follows:

We also adopt Staff's recommendation to include maximum State funding for Lifeline and Linkup services for low income consumers in the first phase of implementation of the State USF, as previously directed in Commission Order No. 97-516, dated June 13, 1997. **State funding in the amount of \$3.50 per month for each qualifying low-income customer will enable the providers of Lifeline assistance to be eligible for additional matching funds for Lifeline services.** (emphasis added).

That additional \$3.50 monthly in State funding which we mandated eight years ago is necessary in order for ETCs to obtain an additional \$1.75 in so-called "Tier Three" federal Lifeline support. See 47 C.F.R. § 54.403(a)(3). ETCs operating in this State and providing Lifeline service receive the requisite \$3.50 in State funding from the State USF. That additional \$3.50 enables those other ETCs to receive that additional \$1.75 in federal Tier Three federal USF support.

ORS has asserted that TracFone, like those other ETCs, could receive that additional \$3.50 in monthly per customer support from the State USF simply by becoming a COLR.<sup>10</sup> We find that ORS is incorrect. Under the laws of South Carolina, TracFone is statutorily prohibited from being designated as a COLR. South Carolina Statutes at § 58-9-10(10) defines COLR as “. . . a facilities-based local exchange carrier, as determined by the Commission . . . .” Since TracFone is not a facilities-based local exchange carrier (it is a CMRS reseller), it may not be designated as a COLR. In South Carolina, only facilities-based carriers are eligible to be COLRs. This is stated in the South Carolina Universal Service Fund Administrative Procedures attached as Exhibit B to Order No. 2001-996 in Docket No. 97-239-C. (“Carriers that provide service as a reseller are not eligible to be COLRs.”). Moreover, the Guidelines for South Carolina Universal Service Fund, also attached to Order No. 2001-996 at Exhibit A, state that only carriers that assume the responsibilities of COLRs are eligible to receive State USF support.<sup>11</sup>

To date, those carriers that have been designated as ETCs and that provide Lifeline service receive State USF support. Unlike those other ETCs, TracFone is prohibited by the laws of this State from COLR designation and may not receive State USF support. Nothing in the record of this proceeding provides any documentation that any other wireless ETC providing Lifeline service in South Carolina contributes to the State USF without receiving Lifeline support from the State USF. Neither is the Commission aware of any such Lifeline provider contributing to the State USF without receiving Lifeline support.

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<sup>10</sup> Reply Brief of ORS at 6.

<sup>11</sup> During the hearing, ORS’s witness, James M. McDaniel, testified that unless TracFone had carrier of last resort designation, it would not be permitted to receive Lifeline support from the State USF. Tr. at 127, lines 22-25.

In this regard, we note that on September 22, 2009, ORS filed Late-Filed Exhibit No. 4 which contains a list of USF contribution and support requirements for “competitive” ETCs in this State. According to that list, three wireless ETCs contribute to the State USF, offer Lifeline service, but do not receive low income support from the State USF. However, that list, unaccompanied by any supporting documentation, is contradicted by Late-Filed Exhibit 5 submitted by TracFone on September 22.<sup>12</sup> Late-Filed Exhibit No. 5 contains two charts filed by the Universal Service Administrative Company (USAC) with the FCC. According to USAC’s data, wireless ETCs in South Carolina do not appear to be providing Lifeline service. One of those wireless ETCs -- FTC Communications, Inc -- has received \$0 in federal Lifeline support for 2009 and received \$9 in federal Lifeline support for 2008. Another wireless ETC -- HTC Communications -- has received \$75 in federal Lifeline support for 2009 and received only \$101 in federal Lifeline support for all of 2008. The third “approved” wireless ETC identified in ORS’s Late-Filed Exhibit 4 -- Cricket Communications, Incorporated d/b/a Cricket Wireless (f/k/a Hargray Wireless, LLC) -- is not even listed by USAC as an ETC in South Carolina. The USAC data submitted as part of Late-Filed Exhibit No. 5 contradicts ORS’s unsupported assertion that there are wireless ETCs in South Carolina who contribute to the State USF, provide Lifeline service, and do not receive low income support from the State USF.

If TracFone provides the additional \$3.50 in monthly Lifeline (necessary to receive Tier Three support from the federal USF), it will do so from its own resources. To require TracFone to contribute to the State USF when it is the only wireless Lifeline provider operating in the State

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<sup>12</sup> TracFone submitted Late-Filed Exhibit 5 on September 22, 2009 in response to Late-Filed Exhibit 4 which was also submitted by ORS on September 22, 2009, just two days before the deadline for proposed orders from the parties. TracFone understands that the Commission will consider whether to accept Late-Filed Exhibit 5 as part of the hearing record during the week of September 28, 2009.

which does not, and which may not, receive State USF support, would be inequitable and discriminatory and would disserve the public interest.

**C. No other State Subjects TracFone to State USF Contribution Requirements; Neither Should South Carolina**

During the hearing, TracFone asserted that it is providing SafeLink Wireless® service as a designated ETC in eighteen other states and the District of Columbia, and it has ETC applications pending in various other states, several of which recently have been approved. TracFone further stated that no other state has sought to impose a state USF contribution requirement on it. We directed TracFone to submit in this proceeding as a late-filed exhibit a list of those other states and whether they have state universal service funds. On September 4, 2009 -- the day following the hearing, TracFone filed the requested late-filed exhibit (Late-Filed Exhibit No. 1). The exhibit indicates that TracFone has been awarded ETC designation without State USF contribution requirements in five states which have state USFs -- Connecticut, Missouri, Pennsylvania, Texas, and Wisconsin. It also has applied for ETC designation in sixteen other jurisdictions which have state USFs -- Arizona, Arkansas, California, Indiana, Kansas, Kentucky, Louisiana, Maine, Minnesota, Nebraska, New Mexico, Oklahoma, Oregon, Puerto Rico, Utah, and Washington. Nothing in the record before us contradicts TracFone's assertion, supported by Late-Filed Exhibit No. 1, that none of these twenty-one other jurisdictions -- all of whom have their own USFs -- have sought to require TracFone to contribute to the states' USFs in order to be designated as an ETC for the limited purpose of receiving **federal** USF funds to support its Lifeline program.

In addition, we recognize that requiring TracFone to contribute to the State USF based on the revenues it receives from its 182,000 non-Lifeline customers in South Carolina would impose a substantial cost burden on TracFone not borne by any other CMRS provider in the state, all of

whom TracFone competes with in the provision of CMRS services, and that such a burden and competitive disadvantage would have the unfortunate consequence of making it economically prohibitive for TracFone to provide SafeLink Wireless® in South Carolina.

**D. TracFone Already Contributes to the Support of Universal Service in this State and Should not be Required to Contribute Twice**

As noted in Section B, above, in accordance with South Carolina law, TracFone does not and may not receive support from the State USF. Therefore, in order to receive the maximum allowable amount of federal USF Lifeline support and to offer low-income households in this State the maximum Lifeline benefit, it must fund the State's \$3.50 "matching" contribution itself from its own resources. Other Lifeline provider in South Carolina are not required to do so. Other ETCs offering Lifeline in South Carolina receive the \$3.50 monthly "matching" State support from the State USF. By providing from its own resources "matching" support which other Lifeline providers obtain from the State USF, we agree that TracFone will be contributing to the support of universal service in this state in the form of direct subsidies to each of its SafeLink Wireless® Lifeline customers.

Neither TracFone nor any other Lifeline provider operating in South Carolina should be required to contribute twice to State support of universal service -- once directly in the form of support payments to Lifeline customers; and once, indirectly, through contributions to the State USF.

Accordingly, we so find and order the following:

1. That TracFone Wireless, Inc. has met all applicable requirements for designation by the Commission as an Eligible Telecommunications Carrier for the limited purpose of providing Lifeline service to low-income South Carolina households, including those requirements codified at 47 U.S.C. § 214(e)(2).



2. That the provision of SafeLink Wireless® service by TracFone to qualified low-income South Carolina households will serve the public interest.

3. That TracFone will provide all required universal service functionalities set forth in the Communications Act and the FCC's rules.

4. That TracFone should not be required to contribute to the State USF as a condition of being designated as an ETC for the limited purpose of receiving support from the federal USF to offer Lifeline service to low-income South Carolina households.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

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Elizabeth B. Fleming, Chairman

ATTEST:

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John E. Howard, Vice Chairman  
(SEAL)

**BEFORE THE  
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

<b>IN RE:</b>	)	<b>Docket No. 2009-144-C</b>
	)	
<b>Application of TracFone Wireless,</b>	)	
<b>Incorporated for Designation as an</b>	)	
<b>Eligible Telecommunications Carrier in</b>	)	<b>CERTIFICATE OF SERVICE</b>
<b>The State of South Carolina for the</b>	)	
<b>Limited Purpose of Offering Lifeline</b>	)	
<b>And Link Up Service to Qualified</b>	)	
<b>Households</b>	)	
	)	

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I hereby certify that on September 22, 2009, I served one copy of the Proposed Order on behalf of TracFone Wireless, Inc. by placing the Exhibit in the U.S. Mail with first class postage paid the following individual:

Lessie Hammonds  
Nanette Edwards  
Office of Regulatory Staff  
Post Office Box 11263  
Columbia, SC 29211

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Jeanne Carey

Columbia, South Carolina  
September 24, 2009